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Report of the Special Rapporteur on the human rights to safe drinking water and sanitation on his mission to India

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the human rights to safe drinking water and sanitation, Léo Heller, on his official visit to India from 27 October to 10 November 2017.

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Report of the Special Rapporteur on the human rights to safe drinking water and sanitation on his mission to India*

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* Circulated in the language of submission only.

I. Introduction

1. Pursuant to Human Rights Council resolution 33/10, the Special Rapporteur on the human rights to safe drinking water and sanitation, Léo Heller, undertook an official visit to India from 27 October to 10 November 2017, at the invitation of the Government.

2. During the two-week visit, the Special Rapporteur travelled to various parts of the country in order to have a broad understanding of the situation, speaking to the relevant government authorities and interacting with as many stakeholders as possible. He had the opportunity to meet with representatives of government and governmental entities at the Union, state and local levels.[1] He visited New Delhi; Lucknow, State of Uttar Pradesh; Mumbai, State of Maharashtra; Kolkata, State of West Bengal; and Imphal, State of Manipur. In those places, the Special Rapporteur had the opportunity to listen to and interview people whose enjoyment of the rights to water and sanitation has been affected. Additionally, he convened several civil society consultations at the regional level, where he engaged in discussions with a large number of civil society representatives and individuals.

3. The methodology used for the country visit was based on the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council and the terms of reference for country visits by the special procedures mandate holders. The analysis of the realization of the human rights to water and sanitation in India calls for a highly complex assessment, in the light of both the constant changes in the implementation of national programmes set up to address the gaps in access to water and sanitation services, and the large social, economic, political, demographic, cultural and regional diversities across the country. During the visit, the Special Rapporteur often faced diverging views about the current situation of the water and sanitation services when talking to the central Government, to local authorities or to civil society organizations. Hence, for his assessment, he aimed to adopt the most balanced approach possible, applying a human rights lens to the best evidence provided by a variety of sources.

4. The Special Rapporteur expresses his appreciation to the Government for its engagement before, during and after the visit. He thanks all those who took the time to meet with him and who generously shared their personal experiences and testimonies and described their living conditions. The Special Rapporteur also thanks the Office of the United Nations Resident Coordinator in India for facilitating the visit.

II. Legal and policy framework

A. Legal framework

5. The human rights to water and sanitation and the human rights obligations of the State are recognized in the International Covenant on Economic, Social and Cultural Rights, ratified by India in 1979, and several other international human rights treaties.[2] The human rights to water and sanitation derive from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of the Covenant. Furthermore, the General Assembly and the Human Rights

[1] Ministry of External Affairs, Ministry of Finance, Ministry of Drinking Water and Sanitation, Ministry of Rural Development, Ministry of Housing and Urban Affairs, Ministry of Health and Family Welfare, Ministry of Railways, National Institute for Transforming India, National Human Rights Commission, National Commission for Women, National Commission for Scheduled Castes, National Commission for Safai Karamcharis, Delhi Jal Board, government of Uttar Pradesh, government of Maharashtra, government of Manipur, Municipal Corporation of Greater Mumbai, Imphal Municipal Corporation.

[2] See article 14 (2) of the Convention on the Elimination of All Forms of Discrimination against Women, ratified by India in 1993; articles 24 and 27 (3) of the Convention on the Rights of the Child, acceded to by India in 1992; and article 28 of the Convention on the Rights of Persons with Disabilities, ratified by India in 2007.

Council have explicitly recognized, in resolutions, the rights to water and sanitation as two distinct but interrelated human rights. The support of India for the resolutions reflects the State's international commitment to and recognition of the human rights to water and sanitation.[3]

6. The international obligations of India stipulated under the international human rights treaties to which it is a party are implemented through national legislation passed by Parliament (article 253 of the Constitution). In other words, unless incorporated into national law by the legislature, the international treaties that India has ratified do not automatically become part of the national legal system. In accordance with article 2 (1) of the International Covenant on Economic, Social and Cultural Rights, States parties are required to utilize all appropriate means, including particularly the adoption of legislative measures, in the implementation of their Covenant obligations. However, India has yet to enact a national law recognizing water and sanitation as human rights.

7. The judiciary in India has played an active role in developing a practice of interpreting the domestic law on the basis of international human rights law. While the Constitution does not explicitly mention the human rights to water and sanitation, its article 21, on the right to life, has been progressively interpreted by the courts to include the rights to water and sanitation. As early as the 1990s, the judiciary had formally recognized the right to water as a right derived from the right to life. The legal foundation of this basic right is found in case law, established by the courts, related to environmental pollution and, more recently, to water supply that is inadequate or completely lacking. The Supreme Court of India also addressed issues of sanitation within the broad interpretation of the right to life under article 21 of the Constitution.[4]

8. While there has been substantial support of the human rights to water and sanitation through legal jurisprudence in India, further support is warranted in the form of binding legislation or regulation and legal enforcement mechanisms, which will complement the existing legislation on groundwater in some states. Instead of a national law being implemented, model bills and framework legislation have been used as guidance for states to adopt and enact their own legislation. The Special Rapporteur heard concerns that the lack of harmonized legislation had led to a patchwork of legislation on water and sanitation varying by state, with few states adopting the model bills as law. He emphasizes that the draft national water framework bill (2016) should recognize the human rights to water and sanitation in line with the authoritative interpretation, provided by the Committee on Economic, Social and Cultural Rights, the General Assembly and the Human Rights Council, of their scope and content.[5]

9. The Special Rapporteur wishes to underscore the importance of explicit legislative recognition of these rights and clear stipulation in legislation of the scope and contents of both rights. In a federal system, such as that of India, having a national law is a key to harmonized and consistent implementation of human rights standards throughout the country. It would ensure the justiciability of the human rights to water and sanitation, namely, individuals and groups who are alleged victims of violations of those rights would be able to file a complaint before a judicial body, to request legal remedies and to have those remedies enforced. In this regard, the Special Rapporteur recommends the Government to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

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[3] In 2010, India voted in favour of General Assembly resolution 64/292 on the human right to water and sanitation. It also supported the adoption of Assembly resolution 70/169, in 2015, and Human Rights Council resolution 33/10, in 2015, in which, for the first time, water and sanitation were addressed as two distinct human rights.

[4] *Gaur and Others v. State of Haryana and Others*, judgment of 24 November 1994.

[5] See the Committee's general comment No. 15 (2002) on the right to water, General Assembly resolution 70/169 and Human Rights Council resolution 33/10 explicitly recognizing the right to sanitation.

B. Institutional and policy framework

10. India has a federal system. The powers of the central and state governments are constitutionally determined and are divided into three categories: Union, which covers central government responsibilities; state; and concurrent, which delineate shared responsibilities between both levels of government (see A/HRC/34/51/Add.1, para. 9). The Constitution introduced the system of municipalities in the urban areas and the system of Panchayati Raj (local assemblies of elected officials with decentralized responsibilities) in towns and villages in rural areas. Water and sanitation are state subjects, for which different states have set up different institutional arrangements, resulting in varied responsibility frameworks for service provision. For instance, in Imphal, State of Manipur, the state government is responsible for the urban area of Imphal city and the rural areas. Yet, in the State of Maharastra, the Municipal Corporation of Greater Mumbai is responsible for the urban area of Mumbai and the rural area is within the purview of the local governments in the state. Usually, panchayats and local bodies implement sanitation programmes in rural areas. In relation to the implementation and monitoring of water and sanitation policies and national budget allocation, the system by which responsibility is shared among central government entities is complex, with separate budget procedures for rural and urban areas.

11. As part of the State, local governments themselves — both those in the Panchayati Raj system and municipalities — are bound by international human rights law. Thus, minimum standards based on human rights criteria must be set at the national level in order to ensure legal clarity, coherence and countrywide compliance with human rights. The national and local governments have the obligation to regulate both formal and informal service provision (see A/HRC/36/45, paras. 69–77) to ensure service providers' accountability for non-compliance with the human rights to water and sanitation.

12. At the policy level, the Government is in the process of implementing several national programmes aimed at improving access to drinking water and sanitation. The National Rural Drinking Water Programme was launched in April 2009 to assist states in providing drinking water to the rural population. The objective of the National Water Policy is to take cognizance of the existing situation, in order to propose a framework for the creation of a system of laws and institutions and for a plan of action with a unified national perspective. The Programme has incorporated changes to the previous programme, emphasizing water supply systems that are planned and managed by the community at the village level, and is aimed at ensuring the availability of sustainable drinking water, convenient supply systems and water security at the household level.

13. The most frequently discussed topic during the Special Rapporteur's interactions with the Government and civil society was related to the Swachh Bharat Mission (Clean India Mission). In his end-of-mission press statement, the Special Rapporteur referred to the programme as a unique effort of a country to face its challenges related to sanitation in an extremely short time span, and as a large step towards the progressive realization of the Indian population's human right to sanitation.[6] The Special Rapporteur warmly commends the Government for the implementation of this relevant initiative; in particular he commends the Prime Minister for his personal engagement. During the visit, the Special Rapporteur was impressed by the nationwide momentum, from the central Government to the most basic unit of administration and the general public, to eliminate open defecation, to accelerate the efforts to achieve universal sanitation coverage and to focus on sanitation. The main goal of the programme is to end open defecation by October 2019 through the mass installation of millions of toilets across the country, supported by the allocation of an impressive budget.

14. The new paradigm initiated under the Clean India Mission has provided considerable impetus to build infrastructure, particularly toilets, including through provision of 12,000 Indian rupees (approximately $185) directly to beneficiaries by various modes of disbursement, typically in two instalments. At the time of the visit in November 2017, the website of the Clean India Mission (www.swachhsangraha.gov.in) a striking

[6] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22375.

number indicated that in rural areas alone 53 million toilets had been built in the previous three years and one month. As at May 2018, another 4.9 million household toilets and 300,000 public toilets had been constructed in urban areas. The Special Rapporteur had the opportunity to visit some rural communities in Uttar Pradesh, certified as open defecation free, and was able to see and hear about the significant improvements in their sanitary conditions.

15. The programme is currently running in 36 states and Union Territories. It is coordinated by the Ministry of Drinking Water and Sanitation, which is responsible for the rural component of the Clean India Mission; the urban component is under the purview of the Ministry of Housing and Urban Affairs. On several occasions, the distinction made between rural and urban India was emphasized to the Special Rapporteur from the perspective of the administrative division of responsibility between the two ministries and the political-administrative organization of the country.

16. Despite the progress made under the programme outlined above, the Special Rapporteur expresses particular concern about the possible gaps between the formulation of the Clean India Mission and the way the programme has been implemented, which could affect some elements of the fundamental human rights. The Clean India Mission is heavily target- and performance-oriented, with a time frame that is very short given the scale of its projected outcomes. Implementation involves intense competition at all levels (villages, districts and states). However, likely as an unintended consequence of the desire to obtain rewards, including the title of "open defecation free", some aggressive and abusive practices seem to have emerged. The Special Rapporteur heard several testimonies that, in the interest of achieving the targets and obtaining the corresponding rewards, people were coerced to, on the one hand, construct toilets quickly and, on the other, stop practising open defecation. For instance, when individuals are identified as practitioners of open defecation, they could have their ration card revoked, which directly affects their exercise of the right to food. Households with overdue energy bills, hitherto tolerated by the authorities, could have the services disconnected. In other cases, individuals defecating in the open are being shamed, harassed, attacked or otherwise penalized. In response to such cases, the Ministry of Drinking Water and Sanitation recognized the existence of abuse associated with the Clean India Mission implementation and issued at least two advisories to all states underlining that such practices must stop. In the view of the Special Rapporteur, those unacceptable practices require continuous monitoring, and all tiers of government must be accountable for upholding the dignity of all persons and not violating other fundamental rights.

III. Human rights to safe drinking water and sanitation

A. Availability

17. While India achieved the target of the Millennium Development Goals on sustainable access to safe drinking water, the Special Rapporteur highlights that the way in which Indian people currently access water services falls far short of meeting the requirements established for target 6.1 of the Sustainable Development Goals, namely, the standard of "safely managed services". Under this standard, water should be available when needed, free from contamination and accessible on premises. For the availability criteria to be met, water in urban and rural areas would need to be provided on a continuous basis, fulfilling the needs of children and adults, including the elderly. The same standard of "safely managed services" is to be applied under target 6.2, meaning that people should be using improved sanitation facilities not shared with other households. To achieve this standard, individual household facilities must be provided to those who currently rely on community toilets. This also entails the provision of sanitation facilities in public spaces, schools, health centres and detention centres.

18. In a press release dated 10 November 2017, the Government presented statistics illustrating its understanding of the availability of water and sanitation in India: "Over 25 crore [250 million] people have got sanitation facilities in three years. Over 2.7 lakh

[270,000] villages, 227 ... districts and 6 ... states are open defecation free (ODF). Seventy-seven per cent of the habitations in rural areas have access to at least 40 Litres Per Capita per Day (LPCD) of water supply. More than 90 per cent people in urban areas have access to safe drinking water".[7] The Government informed the Special Rapporteur that, as at May 2018, the number of sanitation facilities had increased to 35 crore (350 million) and that over 3.6 lakh (360,000) villages, 385 districts, 13 states and 4 Union Territories were open defecation free.

19. Availability of water means that the water supply for each person must be sufficient and continuous for the purposes of drinking, personal sanitation, washing clothes, food preparation and personal and household hygiene. In this context, "each person" refers not only to the 77 per cent of the population in the rural area or 92 per cent in the urban area who have access to water, but also to those who do not (see sect. IV below). It is well known that a normative definition of per capita consumption does not reflect the reality of supply, which varies greatly depending on the nature of the water source and its variations throughout the seasons, the delivery system and the position of a household in a piped system. Thus, the defined minimum consumption of 40 litres per capita per day certainly does not occur homogeneously in practice as such; consumption should be reliably and comprehensively monitored in order to ensure that the entire population of India receives water in line with the human rights standard.

20. With respect to the availability of sanitation, there must be a sufficient number of facilities to avoid overcrowding and waiting times, and the continuous availability of toilets needs to be ensured. When public toilets close after certain hours in the evening, people are forced to defecate in the open at night, which particularly affects women and girls. According to the WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation, in 2015 about 524 million people in India (40 per cent of the population) had to defecate in the open. India accounted for more than 90 per cent of the people in Central and South Asia and 59 per cent of the 892 million people in the world who practised open defecation in 2015. However, the position of the Government is that the Joint Monitoring Programme "incorrectly projects the number of people defecating in [the] open from a trend line based on sanitation data available in the preceding years" and that the number of people practising open defecation had been reduced to 200 million.[8] As at May 2018, 360,832 villages, 159,567 gran panchayats, 3,494 blocks, 384 districts and 17 states had been declared open defecation free. Out of a total of 4,041 cities, 2,711 had been declared open defecation free.[9]

21. While the figures reported by the Government relating to the progress of the Clean India Mission are impressive and the achievements are highly commendable, the Special Rapporteur wishes to emphasize the need to ensure that this availability is leading to actual usage by individuals. Moreover, efforts focused on rigorous measures to count the number of toilets and the number of administrative units that are open defecation free must be combined with efforts to monitor populations that do not have access to sanitation facilities. The Special Rapporteur emphasizes that the assessment of sanitation requirements should be contextual and consider the characteristics of particular groups that may have different sanitation needs. In particular, access to sanitation facilities should be guaranteed for all without discrimination in practice.

22. Certifying a village as open defecation free may be a positive incentive policy, but the process should be developed and implemented to ensure that the focus on the realization of the right to sanitation does not shift to become a mere counting exercise. Although "open defecation free", as a concept, is the same in rural and urban areas in spirit, according to the responsible ministries the protocol to certify an area as open defecation free is not the same for rural and urban areas. The Special Rapporteur learned that some areas certified as open defecation free are often not de facto open defecation free. In one village certified as open

[7] Government of India, press release (10 November 2017). Available from http://pibmumbai.gov.in/scripts/detail.asp?releaseId=E2017PR2060.

[8] Submission from the Government of India dated 15 June 2018.

[9] Ibid.

defecation free, which the Special Rapporteur visited, some elderly people reported that they continued to practise open defecation, citing personal preference and comfort as reasons. In Mumbai, the local authority identified 118 zones that were used for open defecation and built collective toilets within 500 metres of those areas. Yet some residents in those zones still choose to defecate in the open for habitual, cultural and practical reasons. From the human rights perspective, making an area open defecation free is more than checking off the criteria; the status of open defecation free is not clear-cut, but entails gradual achievement in line with the progressive realization of the human right to sanitation.

23. Access to water and sanitation in public spaces must be guaranteed by the Government in line with its obligation to realize the human rights to safe drinking water and sanitation. During the visit, the Special Rapporteur received several reports and observed in many cases that public places, including schools, transport hubs and police stations lacked sufficient and adequate facilities for water and toilets. There has been a large emphasis on having gas stations make their toilets accessible to the public, but often those facilities are locked or unusable. The number of community toilets available is often small in relation to the number of families that require those facilities. This inevitably affects the large population that is "on the move" daily, which includes homeless persons, street vendors, rickshaw drivers and seasonal migrant workers. Street vendors are particularly dependent on the sanitation facilities located in buildings nearby and are often forced to provide money to the guards of the building in exchange for access to those facilities. Moreover, according to interviews conducted by the Special Rapporteur, public toilets are usually not accessible for persons with disabilities, are inadequate for transgender persons and lack adequate facilities for handwashing and for menstrual hygiene management.

24. Policy initiatives on ensuring access to water and sanitation in schools have been implemented but their goals have evidently still not been met. For example, in 2015, the ministry responsible for human resources announced that schools should have separate toilets for boys and girls. The Government reports having built separate toilets in every government school: 226,000 toilets for boys and 191,000 toilets for girls were constructed between August 2014 and August 2015 (see A/HRC/WG.6/27/IND/1, para. 98). Yet, in 2016, only 62 per cent of schools had girls' toilets that were available and useable.[10] In one school the Special Rapporteur visited in Sarthara village, near Lucknow, no functioning toilets were available for the 130 students; two small toilet facilities with two urinals and one toilet each were being built. The Special Rapporteur observed that the design of the toilets for both girls and boys were the same and that the particular needs of girls were not taken into consideration.

25. In relation to the lack of availability of appropriate facilities for collection and disposal of human excreta, discrimination against manual scavengers — those who manually clean latrines and sewers, carrying, disposing or handling human excreta — is a concern. During the visit, many people explained to the Special Rapporteur that manual scavenging was an occupation linked to social caste in India. Under The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, manual scavenging is officially banned. Furthermore, the Government has made efforts to identify and rehabilitate manual scavengers and direct them into different occupations. However, during the interaction with civil society, several surveys identifying the number of manual scavengers were presented to the Special Rapporteur. There are discrepancies among the numbers identified by the Government and those indicated in surveys by civil society, mostly due to differences in the definitions of manual scavenging. From a human rights perspective, whether manual cleaning takes place with or without protective gear — a distinction made in the definition included in the Act — is not relevant when ascertaining whether manual scavenging reflects caste-based discrimination. The reality, as described to the Special Rapporteur, is that those who work as manual scavengers do so because it is the only option open to them.

[10] See http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202016/aser2016_nationalpressrelease.pdf.

26. During the visit, the Special Rapporteur met several people who indicated that they themselves, their relatives or their neighbours continued to be employed in manual scavenging. He met with a number of persons from various districts in Uttar Pradesh who are currently engaged in manual scavenging. The Special Rapporteur heard, during meetings in Delhi and Lucknow, from several people who spoke about a number of relatives who had died while carrying out the hard work of emptying latrines or cleaning sewer lines; they had received no adequate compensation from the State and had faced many difficulties in filing cases for compensation.

27. Efforts to step up the realization of the right to sanitation and end open defecation may unintendedly aggravate discrimination in practice. In particular, the growth in the number of toilets raises concerns that the generations-old practice of imposing sanitary tasks on the lower castes will continue in a discriminatory fashion.

28. It is questionable whether even facilities with the standard technology for excreta disposal applied in the Clean India Mission efforts — twin-pit latrines — will be properly used and whether manual scavenging as a discriminatory practice will be eliminated. In the operation of the twin-pit latrine, the first pit is filled with waste, the pit is switched, the first pit is not touched for at least one year, and after that period the waste can be removed safely. Current communication efforts will have to be extensive and continuous for many years in order for hundreds of millions of people to acquire and assimilate the knowledge of how the technology functions. Even if the twin-pit latrines are properly operated, safeguards would need to be in place to impede the reproduction of manual scavenging practices by scheduled castes. At the same time, the Government should monitor how other technologies are operated, since some studies have indicated that the number of single-pit latrines that have been constructed across several states is not negligible, representing even more unsafe work for manual scavengers.[11]

B. Accessibility

29. Physical accessibility of water implies that sufficient, safe and acceptable water must be within physical reach of everyone, that is, in the immediate vicinity of each household, educational institution and workplace. Where water supply is not available on premises, populations — most often women and children — spend precious time fetching water from surface water, boreholes, tube wells or, in some cases, public stand posts and water tankers.

30. According to the Government, the National Rural Drinking Water Programme "provides for drinking water within the household premises or at a distance of not more than 100 metres from their household".[12] Yet, several people reiterated to the Special Rapporteur that the opportunity cost associated with collecting water is high: it commonly affects children with regard to the time available to them to attend school, and women with regard to their right to equal opportunity. Women are also exposed to violence as a result of this burden; in the hilly districts of the State of Manipur, there have been reports of women being subjected to sexual violence when fetching water.

31. In 2015, it was reported that 92 per cent of the population had access to improved sources of water. When we use the stricter definition adopted under the Sustainable Development Goals, this proportion reduces dramatically: only 49 per cent of the rural population receive water meeting this standard. In the urban areas, 73 per cent of the population have water accessible on premises and 86 per cent have it available when needed.[13] No consolidated information for drinking water quality in Indian urban areas are available in the Sustainable Development Goals baseline report published by the Joint Monitoring Programme.

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[11] WaterAid, "Quality and sustainability of toilets: a rapid assessment of technologies under Swachh Bharat Mission – Gramin" (2017).

[12] Government of India, press release (10 November 2017).

[13] World Health Organization (WHO) and United Nations Children's Fund (UNICEF), *Progress on Drinking Water, Sanitation and Hygiene: 2017 Update and SDG Baselines*.

32. In relation to access to sanitation, there are significant discrepancies across several surveys. Data from the Joint Monitoring Programme (2015) reveal that 44 per cent of the national population (65 per cent in urban areas and 34 per cent in rural areas) have access to at least basic services. According to the Government, as at May 2018, 84 per cent of rural India had access to improved latrine facilities (a figure 50 percentage points higher than that of the Joint Monitoring Programme), indicating that 16 per cent of the population is not covered. Access to sanitation must take into account not only physical access but also the number of people who use the toilet, the quality of the facilities, the proper management of faecal sludge and sewage and the safe transport and disposal of grey water.

33. From a human rights perspective, sanitation includes the treatment and disposal or reuse of excreta and wastewater. Such a broad understanding is warranted, as sanitation not only concerns one's own right to use a latrine or toilet, but also the human rights of other people, who can be negatively affected when wastes are not appropriately treated or disposed of (see A/68/264). This is reflected in the concept of "safely managed services", which also indicates the need for improved management of grey water, which commonly flows into open drains in India. To meet this standard, India would also need to implement an effective faecal sludge management system for excreta stored in latrines and achieve a massive increase in wastewater treatment for the population served by sewerage systems, mostly in cities. The Joint Monitoring Programme reported that the current treatment system covered only 9 per cent of the urban population in 2015.

34. The Government, citing the National Annual Rural Sanitation Survey 2017–18, an independent survey by a third party, stated that more than 70 per cent of villages had systems to manage solid and liquid waste. The waste management activities undertaken in the villages under the Clean India Mission, specifically the ODF-Plus initiative, include solid and liquid waste management and the management of grey water from kitchen and washing activities. The Atal Mission for Rejuvenation and Urban Transformation includes interventions relating to sewerage systems, wastewater treatment plants and faecal sludge management in cities. The Special Rapporteur reiterates the importance of adequate disposal and treatment of excreta, grey water and wastewater, as they present a major health hazard, especially in densely populated urban areas.

C. Affordability

35. Access to water and sanitation facilities must be affordable for all. This means that the direct and indirect costs incurred for those basic amenities must not limit people's capacity to pay for other services, which could ultimately hinder the realization of other rights under the International Covenant on Economic, Social and Cultural Rights. Furthermore, the Special Rapporteur considers that, in the context of targets 6.1. and 6.2 of the Sustainable Development Goals and their indicators, affordability should be treated as an integral part of the definition of "safely managed services".[14]

36. In general, access to water services provided by formal systems in India, including the piped systems in urban areas, is relatively affordable. However, the Special Rapporteur witnessed several situations where individual users were forced to rely on informal providers who sold water at a price that was much higher than that of formal provision. In a resettlement site in Delhi, residents who were not able to collect water from the Delhi Jal Board water tank had to rely on "water ATMs". This meant that they had to have adequate financial resources to ensure that they had water of acceptable quality. In Kolkata, informal vendors transported water obtained freely through public taps and charged slums dwellers for the delivery (20 Indian rupees for 20 litres of water). In the informal settlement of Kaula Bunder, Mumbai Port Trust, a highly complex and unsafe network that is illegally sourced from the municipal water network is operated by a so-called water mafia that charges the households 10 times more than what is paid by consumers living in the "legal city".

[14] See also, in this regard, an open letter from the Special Rapporteur addressed to the Joint Monitoring Programme. Available from www.ohchr.org/Documents/Issues/Water/OpenLetter_WHO_UNICEF_WASH.pdf.

Although municipal and state authorities deny its existence, the Special Rapporteur witnessed a web of water mains, referred to as "flying pipes", suspended in the air among the informal settlement's 7,000 dwellings, snaking across the ground and passing through immense heaps of waste. The Special Rapporteur reiterates the need to have proper regulation of both formal and informal service providers.

D. Quality and safety

37. The human rights framework requires that water be safe, namely, that it must be free from microorganisms, chemical substances and radiological hazards that constitute a threat to a persons' health. The Special Rapporteur notes the Government's "national sub-mission to end arsenic and fluoride contamination in rural water in 4 years".[15] The Ministry of Drinking Water and Sanitation provides support in setting up and strengthening water-testing laboratories at the district and subdivisional levels in the states. As at December 2016, 27 state-level, 729 district-level, 279 block-level, 1,117 subdivisional-level and 88 mobile testing laboratories had been set up by the states and Union Territories.[16] A set of detailed guidelines have also been issued by the Ministry, indicating activities to be undertaken to guarantee safe drinking water in districts particularly affected by Japanese Encephalitis and Acute Encephalitis, including sanitary inspection and disinfection of water sources.[17]

38. Relevant bodies at all levels of the government require appropriate processes to monitor and survey drinking water quality, and to properly remove chemical and microbiological contamination. Regular monitoring of groundwater is undertaken by the Central Ground Water Board of the ministry responsible for water resources and by the Water Quality Assessment Authority. Since the inception of the National Rural Drinking Water Programme, approximately 500,000 chemical kits and 11.9 million bacteriological vials have been purchased or supplied. Almost 4.5 million rural drinking water sources were tested using these kits and close to 3.5 million people have been trained in different states to carry out the water quality tests.[18]

39. However, despite these commendable measures, the Special Rapporteur notes that the quality of drinking water is still an ongoing matter of concern. In 2011, 130.6 million people in India lived in areas with water quality that was unsafe, not meeting the Bureau of Indian Standards only standard specifically for drinking water (IS 10500:2012).[19]

40. Surface water and groundwater are affected by severe pollution, including industrial effluents, sewage and excreta and pollution from waste dumping/leaching, landfills, underground gas tanks and the use of fertilizers and pesticides. Groundwater is often contaminated by chemical components such as arsenic, fluoride, nitrates, and iron and other heavy metals.

41. According to data from the Central Ground Water Board, levels of chemical components in groundwater higher than the limits established by the Bureau of Indian Standards have been observed: fluoride levels exceeded limits in 276 districts in 20 states and arsenic levels exceeded limits in 86 districts in 10 states. A total of 387 districts in 21 states and 297 districts in 24 states are contaminated with high levels of nitrate and iron, respectively.[20] Heavy metals, such as lead, chromium and cadmium, have also found their way into the groundwater, with 113 districts in 15 states contaminated with at least one heavy metal. According to the West Bengal Pollution Control Board, 38 per cent of the groundwater in West Bengal is contaminated with arsenic and fluoride. This has grave

[15] Government of India, press release (10 November 2017).

[16] Government of India, Ministry of Drinking Water and Sanitation, *Annual Report 2016–2017*.

[17] Ibid.

[18] Information provided by the Government on the National Rural Drinking Water Programme.

[19] Tien Shiao and others, "3 maps explain India's growing water risks" (World Resources Institute, 2017). Available from www.wri.org/blog/2015/02/3-maps-explain-india%E2%80%99s-growing-water-risks.

[20] Central Ground Water Board. See http://cgwb.gov.in/Documents/Contaminated%20Areas.pdf.

implications, as approximately 84 per cent of the rural population in the state depends on groundwater sources for drinking water.[21] The Special Rapporteur notes that, through the National Water Quality Sub-Mission, the Government aims to eliminate arsenic and fluoride contamination by 2021.

42. Although the central and state governments have been adopting different measures to control this chemical contamination, those measures have not been entirely effective, and the problem worryingly persists, causing serious health effects. For instance, the Special Rapporteur met a man living in Gobindapur village, near the Bangladesh border, who was suffering from chronic arsenicosis and who showed the effects of this disease on different parts of his skin. His brother had passed away due to arsenic contamination and his family members suffered similar negative health impacts.

43. Another key issue related to water quality is faecal contamination. The general state of surface water in the country reflects the conditions of access to adequate sanitation services and deficits in wastewater treatment, which pose severe threats to the microbiological quality of the water consumed. The Joint Monitoring Programme reported that more than one third of the water consumed by rural populations was contaminated in 2015. Other studies show doubtful microbiological drinking water quality in various parts of India.[22] Also of note is that many households do not treat water before consumption. The reduction of open defecation practices in recent years might change this picture, but the impact of the national programmes for sanitation and environmental protection on the improvement of drinking water quality still needs to be assessed.

44. Quality of water and sanitation is closely related to access to information by the public. India has a robust management information system and dashboards that, for instance, provide information on drinking water status in rural areas.[23] The Special Rapporteur notes that the presentation of that information is targeted at technical experts; efforts could be made to make the information accessible to the public at large.

45. Sanitation facilities must be hygienically safe to use, meaning that the infrastructure must effectively prevent human, animal and insect contact with human excreta; ensure access to safe water for hand washing and menstrual hygiene; be designed taking into account the needs of persons with disabilities and children; and be regularly cleaned and maintained. The Special Rapporteur observed that such facilities in India can be precarious in terms of quality and safety; there have been cases where, following a collapse of community toilet infrastructure, people queuing to use the toilets have fallen into the pits containing excreta and died.

E. Acceptability

46. Sanitation facilities and services must be culturally acceptable (see A/HRC/12/24, para. 80). While there are differing perspectives about which sanitation solutions are acceptable, cultural values must be taken into account regarding design, positioning and conditions for use.

47. After interacting with government officials, community representatives and residents, it became clear to the Special Rapporteur that open defecation is often an ingrained personal and social practice, and that it can be difficult to persuade people to end the practice and use specific types of toilets. In several states, challenges were reported in achieving behaviour change in their communities, particularly among the elderly. The large cultural and ethnic diversity in India is a consideration: the Special Rapporteur heard from

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[21] Anamika Shrivastava and others, "Arsenic contamination in shallow groundwater and agricultural soil of Chakdaha block, West Bengal, India", *Frontiers in Environmental Science*, vol. 2 (November 2014).

[22] One systematic review of 60 studies on faecal contamination in India revealed only 6 in which all samples showed an absence of contamination. See Robert Bain and others, "Fecal contamination of drinking-water in low- and middle-income countries: a systematic review and meta-analysis", *PLOS Medicine* vol. 11, No. 5.

[23] See http://indiawater.gov.in/IMISReports/nrdwpmain.aspx.

community representatives and residents that the standard design adopted by the Clean India Mission — pour-flush twin-pit toilets — does not necessarily meet the needs, or fit with the culture, of all populations. At the same time, he met many individuals in villages who enthusiastically conveyed their satisfaction with the benefits that come with having an individual household toilet. However, many, including government officials, expressed doubts that behaviour change could be achieved in a short time period and that it would be sustainable in the long term by all those recently "converted" to using toilets.

48. Sanitation facilities must be acceptable for all individuals, including those who are transgender and gender non-conforming (see A/HRC/33/49, para. 9). In 2014, the Supreme Court of India affirmed the right of transgender persons to decide their self-identified gender, and directed the Government to take specific steps to ensure equality and non-discrimination for transgender persons, including steps to take proper measures to provide them with separate public toilets and other facilities.[24] Further, guidelines on gender issued in 2016 in the context of the Clean India Mission specifically stipulate that members of the transgender community are free to use the toilet for the gender they identify with. Yet, in the State of Manipur, the Special Rapporteur heard testimonies that transgender persons still faced difficulties in accessing public toilets and often were subject to harassment and humiliation.

F. Sustainability

49. Understanding sustainability from a human rights perspective greatly contributes to achieving lasting solutions to water and sanitation challenges for present and future generations (see A/HRC/24/44, para. 85). In order for services to be sustainable, they must be available and accessible to everyone on a continuous and predictable basis, without discrimination (ibid., para. 20). There must be "permanent beneficial change" that flows from quality services and sustained behavioural change or, in human rights terms, progressive realization towards fully realizing the human rights to water and sanitation for everyone. Once services and facilities have been improved, the positive change must be maintained and slippages or retrogression must be avoided.

50. The Government emphasized that "sustainability is one of the hallmarks of [the Clean India Mission]. There is a detailed sustainability protocol, including continued [information, education and communication] post ODF [open defecation free], and a sustainability verification of ODF verified villages." It stated also that the National Rural Drinking Water Programme earmarked a "10% allocation for water security through source and system sustainability".[25]

51. The Clean India Mission does possess an explicit component on information, education and communication. The central Government is apparently allocating the expected budget to such activities; however, not all state governments are doing so. The Special Rapporteur heard from several civil society organizations and from promoters of information, education and communication that insufficient financial resources or inadequate methodology for this fundamental aspect of the programme can sometimes prevent achievement of the desired outcomes: the sustainable and safe usage of toilets and the elimination of open defecation.

52. The findings of assessments of the sustainable and safe usage of toilets, especially those implemented through the Clean India Mission, vary widely and depend on the methodology. According to surveys conducted in 2016 and 2017 by the Quality Council of India, which covered 140,000 households, approximately 91 per cent of toilets that had been built were being used. An assessment conducted by WaterAid that was focused on a smaller sample (1,024 households), with no evidence of bias against the programme, suggests a different scenario, highlighting that usage soon may start to decrease without continued efforts to make infrastructure sustainable. According to the survey, "only 33 per

[24] *National Legal Services Authority v. Union of India and others*, Writ Petition (Civil) No. 400 of 2012, judgment of 15 April 2014.

[25] Government of India, press release (10 November 2017).

cent of the constructed toilets were deemed sustainably safe (eliminating risks of contamination in the long term); 35 per cent were safe, but would need major upgrades to remain safe in the long term; and 31 per cent were unsafe, creating immediate health hazards".[26] Indeed, the Special Rapporteur observed several abandoned or poorly maintained toilets. Toilets may also be installed with doors that do not have locks, which negatively affects users' privacy. Conversely, the Special Rapporteur observed and heard of several cases where functioning toilets exist in public places but are left locked.

IV. Leaving no one behind

53. The Sustainable Development Goals resonate with the human rights key principle and call for Governments to "leave no one behind", particularly in respect of access to water and sanitation. Targets 6.1 and 6.2 require equitable access to the services, and special attention to be paid to the needs of, women and girls and those in vulnerable situations. To uphold its commitment to achieving the Goals by 2030, the Government needs to monitor the progress towards targets 6.1 and 6.2. Moreover, to uphold the country's human rights obligations, it must develop methodologies that take into account the normative content of the human rights to water and sanitation, and monitor inequalities and non-discrimination in access to those services. The Special Rapporteur emphasizes the importance of adopting a national consensus on the next steps in water and sanitation policies so that no one is left behind.

54. Fulfilling the pledge to leave no one behind starts with reaching those who are furthest behind. While a large part of the population in India enjoys access to water and sanitation, certain groups in vulnerable situations are still being left behind, either due to lack of access to services or to the lower level of the services to which they have access. These include Dalits ("untouchable communities"), tribes/Adivasis (ethnic groups in hard-to-reach areas), nomadic tribes, denotified tribes (tribes that had been criminalized and subsequently decriminalized, or "denotified", after independence), Muslim minority communities, persons with disabilities, the lesbian, gay, bisexual, transgender and intersex population, women in sex work, fisher communities, urban poor (slum dwellers), orphan children, homeless people, the migrant population and others.[27] Leaving no one behind is closely linked to the overarching principles of equality and non-discrimination. Non-discrimination is an immediate and cross-cutting obligation of the State; discrimination must be eliminated both formally and substantively,[28] and is not subject to progressive realization.

55. The Government stated that the national sanitation programme focused on "especially abled, transgenders, poor and backward classes" and that the National Rural Drinking Water Programme prioritizes funds for scheduled castes and scheduled tribes.[29] The guidelines of the Clean India Mission component focused on rural areas explicitly stipulate that incentives be given to marginalized sections of the society, including people living below the poverty line, scheduled castes and scheduled tribes, persons with disabilities, widows and old-age pensioners, landless labourers with homesteads, small farmers, marginal farmers and women-headed households. States are also given flexibility under the rural component to increase the amount for special cases. For instance, Assam provides extra incentives for households in flood-affected and flood-prone areas. In Karnataka, an extra incentive of 3,000 Indian rupees is provided to scheduled castes and scheduled tribes. In Jharkhand, 17,000 Indian rupees are provided as an incentive to construct toilets for persons with disabilities.

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[26] WaterAid, "Quality and sustainability of toilets", p. 3.

[27] Youth For Unity & Voluntary Action, "Sustainable Development Goals: Agenda 2030 'Leave no-one behind'" (2016), p. 7.

[28] Committee on Economic, Social and Cultural rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, paras. 7–8.

[29] Government of India, press release (10 November 2017).

56. While taking note of the allocation of resources for certain groups in vulnerable situations under a specific national policy, the Special Rapporteur emphasizes that States cannot fully realize the human rights to water and sanitation without addressing stigma as a root cause of discrimination and other human rights violations (see A/HRC/21/42). Tackling root causes is essential to address incidences of lack of access to water and sanitation, where people in particular groups are systematically neglected compared to the rest of the society. The State is obligated to address situations where people are excluded from the use of water and sanitation facilities because they find themselves unable to access public toilets, have no alternatives or are threatened with violence and fear for their physical and mental integrity. The obligation extends to the prohibition of inhuman and degrading treatment and the protection of the right to privacy.

57. The Special Rapporteur's findings from the visit reveal that several determinants have a heightened likelihood of predicting where or why people have lower quality access to adequate water and sanitation services: disability, gender, caste, tribe, poverty, place of residence (urban or rural) and land tenure (especially in urban areas, e.g. residence in formal vs. informal settlements), among others. The ways in which these factors can have an impact on one's access are diverse but, importantly, a combination of any of these factors is likely to have a multiplying effect. For example, persons with disabilities widely suffer from a lack of accessible sanitation infrastructure, but women and girls with disabilities can suffer more, and still more from the added lack of material and social conditions to ensure menstrual hygiene management.

58. The overall targets for increasing access to water and sanitation must, therefore, be complemented by targets to reduce inequalities. As a first step, this requires the State to identify vulnerable and marginalized populations, as well as patterns of discrimination and their underlying structural causes. The Special Rapporteur highlights the importance of collecting and analysing data disaggregated by wealth level, migratory status, ethnic group and other grounds of discrimination, as such information may have an impact on the formulation of national policies with regard to ensuring that individuals and communities in vulnerable situations are prioritized and monitored. In this section, the Special Rapporteur provides a snapshot of the inequalities faced by certain groups in vulnerable situations that drew his attention during the visit, as a starting point for the Government to carry out identification of the vulnerable and marginalized population.

A. Scheduled castes

59. According to the official census of 2011, Dalits (referred to as "scheduled castes") constitute more than 201 million people. This figure does not include Dalits who have converted or are born and raised within non-Hindu religious communities, such as the Dalit Muslim and Christian communities; unofficial statistics estimate that the actual number of Dalits in India is much higher (see A/HRC/31/56, para. 33).

60. Dalits represent the victims of the gravest forms of caste-based discrimination, have often limited or unequal access to resources and services, including water and sanitation, and are disproportionately affected by poverty. In India, more than 20 per cent of Dalits still do not have access to safe drinking water and about 50 per cent of Dalit villages are denied access to water sources.[30] During the visit, the Special Rapporteur heard numerous testimonies from Dalits regarding incidents where they have been unable to collect water from shared wells or public taps, or have been fined for touching or drinking from a common water tap. Some Dalits have been beaten and killed. Dalit women and girls have been subjected to physical assault and violence; in one incident a pregnant Dalit woman was assaulted and abused while she was defecating in the open. In several incidents Dalit women and girls were kidnapped and raped while returning from defecating in the open. Furthermore, Dalit students were not allowed to drink water directly from the water pot and

[30] Working Group on Human Rights in India and the United Nations, "Right to water and sanitation", factsheet for the third-cycle universal periodic review of India. Available from http://wghr.org/wp-content/uploads/2017/03/Fact-Sheet-05-Right-to-Water-and-Sanitation.pdf.

were forced to request students from other castes to pour the water into their hands from a distance.

B. Persons with disabilities

61. According to the 2011 census, persons with disabilities constitute 4 per cent of the population. Independent studies by civil society have found that the figure is closer to 6 to 7 per cent — approximately 70 million people. Groups of persons with disabilities voiced concern about the widespread lack of accessibility of water and sanitation services in various public establishments, such as schools, transport hubs and police stations. The Special Rapporteur raises the concern that the government subsidies for households to build toilets are not adequate for the needs of persons with disabilities. While some states provide additional incentives for toilets for persons with disabilities, the standard incentive of 12,000 Indian rupees does not take into account the need for adapted toilets, for example. Especially where wheelchairs are used, special arrangements are required and the standard width of the door is not sufficient.

C. Place of residence

62. Among the list of prohibited grounds for discrimination, article 2 (2) of the International Covenant on Economic, Social and Cultural Rights refers to "other status", which includes the prohibition of discrimination based on place of residence. [31] Furthermore, the Committee on Economic, Social and Cultural Rights specifies that no household should be denied the right to water on the grounds of their housing or land status.[32] In the context of India, discrimination based on place of residence has critical relevance due to the large proportion of slums and the homeless population.

1. Informal settlements, resettlements and homelessness

63. Access to drinking water and sanitation in informal settlements is a concern in the various slums that the Special Rapporteur visited in Delhi, Lucknow, Kolkata and Mumbai. In the case of Mumbai, the country's most populous city, slums are home to more than half of the city's 18 million inhabitants. The Special Rapporteur observed that adequate access to water and toilets does not exist in most of the slums that he visited.

64. While some individuals choose to defecate in the open as a matter of preference, the Special Rapporteur visited areas where open defecation remained the only feasible option. This was the case in slums and resettlement sites, where community toilets were often far away or non-existent. In the non-notified (not legally recognized) slum Vinaykpuram, in Lucknow, all dwellers defecated in the open. During the visit around the slum, the Special Rapporteur saw no functional community toilets close by and the only toilet, which was dysfunctional, was built only two years ago. In Delhi, the Special Rapporteur visited Savda Ghevra, a planned resettlement site built in 2010 on 257 acres of land. While the residents of Savda Ghevra had access to drinking water from the Delhi Jal Board water trucks, they did not have toilet facilities on their premises and had to rely on community toilets far from their dwellings.

65. In 2014, Bombay High Court held that slum dwellers who occupied illegal huts could not be deprived of their fundamental right to water.[33] The Court also held that "as the right to life guaranteed under Article 21 of the Constitution of India includes right to food and water, the State cannot deny the water supply to a citizen on the ground that he is residing in a structure which has been illegally erected".[34]

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[31] See Committee on Economic, Social and Cultural Rights, general comment No. 20, paras. 27–35.

[32] See Committee on Economic, Social and Cultural Rights, general comment No. 15, para. 16 (c).

[33] *Pani Haq Saiti & Ors. v. Brihan Mumbai Municipal Corporation & Ors.*

[34] Ibid., para. 11.

66. Due to the lack of formal recognition of settlements established after 2000, municipalities often deny such settlements adequate services for fear of legitimizing them. The conditions of access to water and sanitation facilities in settlements can differ greatly and can be considerably influenced by the legal recognition of the settlement. In certain notified (legally recognized) settlements that the Special Rapporteur visited, residents had access to some services from public authorities, including water tankers providing free water a few times a week. However, non-notified settlements were denied any intervention from public providers. While some stand posts and boreholes were available within or close to some non-notified settlements, they were not always constructed by the public authorities. Additionally, it was not certain whether the quality of the water was monitored and whether it met the standards for drinking water. In an informal settlement located in Bhim Nagar, Maharashtra Nagar, in Mumbai, access to water for a total of 160 houses came from a variety of sources, some close by, including holes dug in the ground to access poor quality groundwater, and others farther away.

2. Population living in rural areas

67. According to a global report published in 2017, in rural areas, where 67.5 per cent of the country's residents live, access to piped water is only available to 31 per cent of the population (about 270 million people out of the country's 1.3 billion).[35] Meanwhile, in urban areas, it is available to 69 per cent of the population. A similarly stark divide separates the proportion of people with access to water on premises in rural versus urban areas: 49 per cent and 73 per cent, respectively, in 2015.[36]

68. One group that lives predominantly in rural areas is the scheduled tribes population. According to the 2011 census, approximately 90 per cent of members of scheduled tribes live in rural areas. The Special Rapporteur met with a representative of a scheduled tribe population of about 12,000 people living in Sanjay Gandhi National Park, near the Borivali district, 30 to 40 kilometres from Mumbai. Since neither district nor central Government authorities have provided them with water and sanitation services, for several years the members of the tribe have had no choice but to defecate in the open and, at times, risk being attacked or even killed by wild animals. "*Pani nahi, shouchalay nahi*" (no water, no toilet) was the way the representative expressed his concern to the Special Rapporteur.

3. Communities living near megaprojects

69. Rural populations' access to water is also affected by large projects that directly or indirectly affect essential water sources used for drinking, domestic tasks or livelihoods. In Manipur, the Special Rapporteur was informed about how large infrastructure (dams, railways, roads and industrial projects) affects water sources of rural villages. In particular, he visited two communities downstream of the Thoubal multipurpose dam project that no longer relied on the river as their source of drinking water, due to the deteriorated water quality and the irregular flow, and that had to pay for access to the water source of a nearby village. The Special Rapporteur is concerned that the lack of prioritization in allocating water for domestic and personal use may negatively affect the access to drinking water of those living in vulnerable situations. In some of the villages visited, the Special Rapporteur was informed that the local authorities had only partially constructed household toilets and, while the intended beneficiaries waited for the construction to be finished, they had no choice but to defecate in the open.

D. Undocumented population

70. Another group that fell outside the purview of any government protection was the undocumented population living in 51 former Bangladeshi enclaves situated in India and 111 former Indian enclaves located in Bangladesh. Since the signing in 2015 of a land boundary agreement by the Governments of India and of Bangladesh, 922 people have been

[35] WHO and UNICEF, *Progress on Drinking Water, Sanitation and Hygiene*, p. 65.

[36] Ibid.

living in three resettlement camps situated in Dinhata, Mekhliganj and Haldibari, in Cooch Behar district, West Bengal. Those people do not possess a toilet within their houses and are forced to defecate in the open. Access to water is provided through a few tube wells dug by the Government, which provide water of inadequate quality. It is important to highlight, in this particular context, the obligation of India to uphold the rights to water and sanitation not only to Indians but also to foreigners who reside in the territory as well as to those people who do not have proper identity documentation.

V. Recommendations

71. **In the light of the above observations, the Special Rapporteur recommends that the Government of India:**

(a) **Adopt a legislative framework that recognizes the human rights to water and sanitation at the national level and, in particular, ensure the harmonization and consistency of that legislative framework across states and the union territories of India;**

(b) **Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;**

(c) **Clarify, in a transparent manner, the roles and responsibilities of institutional actors in the water and sanitation sector from all dimensions: vertically, among central, state, local and rural governments; and horizontally, among entities within the different tiers of government;**

(d) **Establish an independent regulatory mechanism with adequate financial and human resources to monitor the implementation of the human rights to water and sanitation, including all the normative content of those rights;**

(e) **Continuously monitor the implementation of national policies on water and sanitation from a human rights perspective and reassess those policies to strengthen the incorporation of the human rights framework as a whole;**

(f) **Monitor compliance with the human rights to safe drinking water and sanitation at all levels of the government and by formal and informal service providers;**

(g) **Reconcile the efforts to achieve open-defecation-free status with the obligations to uphold the dignity of all persons and not to violate other fundamental rights;**

(h) **Ensure that public sanitation facilities are available continuously and, in case of shutdown, ensure alternative options so that people are not forced to defecate in the open;**

(i) **Guarantee access to sufficient and continuous water and sanitation facilities in public places for those on the move daily, including homeless persons, street vendors, rickshaw drivers and seasonal migrant workers;**

(j) **Ensure balance in efforts and measures to monitor the construction of toilets with respect to monitoring those who do not have access to sanitation facilities;**

(k) **Strengthen initiatives for implementing faecal sludge management, safe transport and disposal of grey water, and wastewater treatment, to reduce health hazards arising from the contamination of water;**

(l) **Ensure that sanitation facilities are acceptable for all individuals, taking into consideration the characteristics of particular groups, which may have different sanitation needs;**

(m) **Maintain a strong surveillance system to identify, monitor and prevent aggressive and abusive practices, such as coercion, shaming, violence or punishment, in the effort to eliminate open defecation in the country;**

(n) Establish a monitoring system to follow the process of emptying pit latrines under the national programmes, in order to control possible trends of increases in manual scavenging practices, ensuring that this practice is not carried out in a caste-discriminatory manner;

(o) Identify the persisting problems related to drinking water quality and assess the effectiveness of the measures implemented to monitor and respond to water contamination;

(p) Strengthen access to information, including by making information related to drinking water quality available to the public in a user-friendly manner;

(q) Identify populations in vulnerable situations, including non-nationals and those without proper identity documentation, and identify patterns of discrimination, and their underlying structural causes, that heighten the likelihood of lower quality access to adequate drinking water and sanitation services;

(r) Disaggregate data by wealth level, migratory status, ethnic group, scheduled caste, scheduled tribe and other grounds of discrimination, identifying patterns of inequality, as such information may have an impact on the formulation of national policies;

(s) Provide equal access to water and sanitation services irrespective of the place and status of residence, including in informal settlements and resettlements and for persons who are homeless;

(t) Make human rights impact assessments a requirement for all megaprojects, including the construction of hydroelectric dams.